

# PATENT COOPERATION TREATY

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From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

REC'D 22 NOV 2006

To:  
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## NOTIFICATION OF TRANSMITTAL OF INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Rule 71.1)

Date of Mailing  
(day/month/year)

16 NOV 2006

Applicant's or agent's file reference

4700/56 PCT

### IMPORTANT NOTIFICATION

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US05/05006

17 February 2005 (17.02.2005)

17 February 2004 (17.02.2004)

Applicant

CLEAR LAM PACKAGING, INC.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

Name and mailing address of the IPEA/US

Mail Stop PCT, Attn: IPEA/ US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Facsimile No. (571) 273-3201

Form PCT/IPEA/416 (July 1992)

Authorized officer

Patrick F. Brinson

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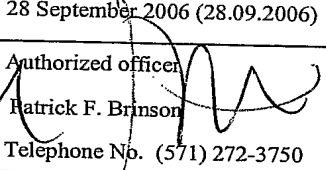
# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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| REC'D 22 NOV 2006 |
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| Applicant's or agent's file reference<br>4700/56 PCT   | <b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)                                    |   |
| International application No.<br>PCT/US05/05006  | International filing date (day/month/year)<br>17 February 2005 (17.02.2005)  | Priority date (day/month/year)<br>17 February 2004 (17.02.2004) |
| International Patent Classification (IPC) or national classification and IPC<br>IPC: <b>B65D 35/56</b> ( 2006.01)<br>USPC: 222/105,107,541.6   |  |   |
| Applicant<br>CLEAR LAM PACKAGING, INC.   |  |   |
| <p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of ___ sheets.</p>  |  |   |
| <p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <li>I <input checked="" type="checkbox"/> Basis of the report</li> <li>II <input type="checkbox"/> Priority</li> <li>III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability</li> <li>IV <input type="checkbox"/> Lack of unity of invention</li> <li>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li>VI <input type="checkbox"/> Certain documents cited</li> <li>VII <input checked="" type="checkbox"/> Certain defects in the international application</li> <li>VIII <input type="checkbox"/> Certain observations on the international application</li> </ul> |  |   |
| Date of submission of the demand<br>07 September 2006 (07.09.2006)   | Date of completion of this report<br>28 September 2006 (28.09.2006)  |   |
| Name and mailing address of the IPEA/US<br>Mail Stop PCT, Attn: IPEA/ US<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, Virginia 22313-1450<br>Facsimile No. (571) 273-3201   | Authorized officer<br><br>Patrick F. Brinson<br>Telephone No. (571) 272-3750 |   |

Form PCT/IPEA/409 (cover sheet)(July 1998)

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US05/05006

## I. Basis of the report

1. With regard to the **elements** of the international application:\*

- ☒ the international application as originally filed.
- ☒ the description:
  - pages 1-40 \_\_\_\_\_ as originally filed
  - pages NONE \_\_\_\_\_, filed with the demand
  - pages NONE \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☒ the claims:
  - pages 41-44 \_\_\_\_\_, as originally filed
  - pages NONE \_\_\_\_\_, as amended (together with any statement) under Article 19
  - pages NONE \_\_\_\_\_, filed with the demand
  - pages NONE \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☒ the drawings:
  - pages 1-27 \_\_\_\_\_, as originally filed
  - pages NONE \_\_\_\_\_, filed with the demand
  - pages NONE \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☐ the sequence listing part of the description:
  - pages NONE \_\_\_\_\_, as originally filed
  - pages NONE \_\_\_\_\_, filed with the demand
  - pages NONE \_\_\_\_\_, filed with the letter of \_\_\_\_\_.

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:

- ☒ the description, pages NONE
- ☒ the claims, Nos. NONE
- ☒ the drawings, sheets/fig NONE

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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## V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. STATEMENT

Novelty (N)

Claims 7,9-11,20-23 and 29-34

YES

Claims 1-6, 8, 12-19, 24-28, 35 and 36

NO

Inventive Step (IS)

Claims NONE

YES

Claims 1-36

NO

Industrial Applicability (IA)

Claims 1-36

YES

Claims NONE

NO

### 2. CITATIONS AND EXPLANATIONS

Please See Continuation Sheet

**INTERNATIONAL PRELIMINARY EXAMINATION REPORT**

International application No.

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**VII. Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

The description is objected to as containing the following defect(s) under PCT Rule 66.2(a)(iii) in the form or contents thereof: The specification. Page 15, line 26 discussed Design patent application 29/203,851, but this should be changed to 29/203,581.

**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

**V. 2. Citations and Explanations:**

Claims 1-6, 8, 12-19, 24 and 25 lack novelty under PCT Article 33(2) as being anticipated by U.S. 5,632,416 to **Lane, Jr. et al.**

The **Lane, Jr. et al.** reference discloses a collapsible dispenser pouch comprising a product containment portion (30), at least one spout-receiving portion (24) in communication with the product containment portion. A lower heat sealed region (36, 37) adjacent a bottom end of the containment portion including bag alignment indicators (32, 34), wherein the bag alignment indicator allows alignment with a valve to position the spout receiving portion to receive a dispenser spout, as recited in claims 1 and 14. The lower sealed region comprises a tear strip (38) configured to open the spout receiving portion, the tear strip comprising perforations (40), as recited in claims 2, 3, 12, 13, 15, 16, 24 and 25. The alignment indicator is located between the product containment portion and the spout receiving portion, as recited in claims 4 and 17. The bag further includes a support portion (26), located at an end of the product containment portion opposite the lower sealed region, as recited in claims 5, 6, 18 and 19.

Claims 7, 9-11 and 20-23 lack an inventive step under PCT Article 33(3) as being obvious over **Lane, Jr. et al.** in view of U.S. 4,925,711 to **Akao et al.**

The **Lane Jr. et al.** reference does not disclose the material from which the bag is formed, only stating that the material is sufficiently flexible to enable the pouch to be collapsed by various operating means, so as to substantially completely empty the contents therefrom. The patent to **Akao et al.** discloses packaging bags formed from lamination of coextruded multilayer inflation films including polyethylene, polypropylene, and various other materials recited in the claims. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the material from which the bag of **Lane Jr. et al.** is made so that it is formed of a lamination of coextruded multilayer inflation films as suggested by **Akao et al.** in order to form a collapsible dispenser pouch that has greater physical strength, such as tensile strength, tear strength and bursting strength.

Claims 26-28, 35 and 36 lack novelty under PCT Article 33(2) as being anticipated by U.S. 4,890,744 to **Lane, Jr. et al.**

The patent to **Lane, Jr. et al.** '744 discloses an easy open product pouch including a product containment portion (22) and at least two spout openings (86 and 88), fig. 6, in communication with the product containment portion. The pouch has a lower sealed region with the spout portions disposed within the lower sealed region, as recited in claims 27 and 28. The lower sealed portion further comprises a tear strip just above the main spout portion to promote uniform tear across the spout area, as recited in claims 35 and 36.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

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**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

Claim 29 lacks an inventive step under PCT Article 33(3) as being obvious over Lane, Jr. et al. '744 in view of Lane, Jr. et al. '416.

The patent to Lane Jr. et al. '744 does not disclose the bag as having a bag alignment indicator. The patent to Lane, Jr. et al '416 discloses a bag alignment indicator, as discussed in preceding paragraph. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide to the bag of Lane, Jr. et al. '744 a bag alignment indicator, as taught by Lane, Jr. et al. '416 in order to utilize the bag within a dispensing machine and to align the spout receiving portion to a spout.

Claims 30-34 lack an inventive step under PCT Article 33(3) as being obvious over the prior art as applied in the immediately preceding paragraph and further in view of Akao et al.

The patent to Lane, Jr. et al. '744, as modified, does not disclose the material of which the bag is formed. The patent to Akao et al. discloses packaging bags formed from lamination of coextruded multilayer inflation films including polyethylene, polypropylene, and various other materials recited in the claims. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the material from which the bag of Lane Jr. et al. is made so that it is formed of a lamination of coextruded multilayer inflation films as suggested by Akao et al. in order to form a collapsible dispenser pouch that has greater physical strength, such as tensile strength, tear strength and bursting strength.

Claims 1-36 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.